

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

## **MEMORANDUM AND ORDER**

Before the Court is movant's pro se motion to vacate, brought pursuant to 28 U.S.C. § 2255. In his motion to vacate, movant seeks a reduction in his sentence pursuant to the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

In *Johnson*, the Supreme Court of the United States held the “residual clause” of the Armed Career Criminal Act (“the ACCA”), 18 U.S.C. § 924(e)(2)(B)(ii), unconstitutionally vague. As movant was convicted under the ACCA and as it appears from the motion to vacate that he is relying on *Johnson* as the basis for his arguments for resentencing, this Court will order the Federal Public Defender’s Office to enter their appearance on behalf of movant, in accordance with the Administrative Order entered in this Court on August 14, 2015, titled *In Re: Johnson v. United States*.

The Court will also request assistance from the United States Probation Office for the Eastern District of Missouri in reviewing movant's § 2255 petition.

Accordingly,

**IT IS HEREBY ORDERED** that the Office of the Public Defender for the Eastern District of Missouri is required to enter their appearance on behalf of movant in this action in

accordance with the Administrative Order entered in this Court on August 14, 2015, titled *In Re: Johnson v. United States*. If the Public Defender wishes to file an amended § 2255 on behalf of movant, it shall do so within thirty (30) days of the date of this Memorandum and Order.

**IT IS FURTHER ORDERED** that the Clerk of Court shall notify the United States Probation Office of movant's § 2255 motion to vacate and that it is brought pursuant to the Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

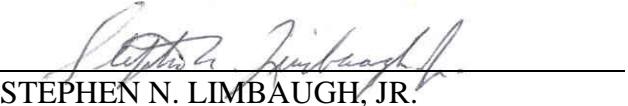
**IT IS FURTHER ORDERED** that, within a reasonable time, and in its usual course of business, the United States Probation Office shall prepare and file in movant's criminal case a new Presentence Report relative to movant's contentions under *Johnson*, which shall be filed under seal, with access to the Court and the parties who have entered their appearance in this matter.

**IT IS FURTHER ORDERED** that within fourteen (14) days of the filing of the Probation Office's Disclosure Copy of the Presentence Report, the parties shall file, in movant's criminal case, simultaneous objections to the Presentence Report or statements that they have no objection. Within seven (7) days of such time, the Office of Probation and Pretrial Services shall file a final copy of the Presentence Report in movant's criminal case.

**IT IS FURTHER ORDERED** that on the same day as the Final Presentence Report is filed by the Probation Office in the criminal case, the Government shall file its response to movant's motion to vacate in this case.

**IT IS FURTHER ORDERED** that any reply to the Government's response to the motion to vacate shall be filed, in this case, no later than fourteen (14) days from the date the response is filed.

Dated this 5<sup>th</sup> day of October, 2015.



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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE